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10/583,982	04/23/2007	Mogens Mathiesen	43315-232647	8441
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VENABLE LLP			TRUONG, DENNIS	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/583,982	MATHIESEN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Dennis Truong	2169

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 June 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 and 15-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 June 2006 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>June 22, 2006</u> .	6) <input type="checkbox"/> Other: _____



## DETAILED ACTION

1. Claims 1 – 13, 14-20 are pending.

### *Information Disclosure Statement*

2. IDS filed on June 22, 2006 has considered by the Examiner.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Regarding claims 1 and 13 the phrase "and/or" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

### *Claim Rejections - 35 USC § 101*

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1- 12, 13, 15-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

7. **Claim 1** refers to "software entity" and is not disclosed to be stored on a computer readable medium that complies with statutory subject matter. Also **Claim 13** refers to "computer readable medium" where in the specification (page 16 line 5-7) defines computer readable medium as "firmware" which is directed to non-statutory subject matter. **Claim 15** refer to "software architecture" and is not disclosed to be stored on a computer readable medium that complies wit statutory subject matter. Accordingly, the claims lack the necessary physical

articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101.

They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material.” Both types of “descriptive material” are nonstatutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because “[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.”).

8. Claims 2 - 12 are dependent on claim 1 and are rejected under the same reasons as above.

9. Claim 16-18 are dependent on claim 15 and are rejected under the same reason as above.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1, 8, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by **Fowler et al.** (US 6714977 B1).

As per claim 1, Fowler discloses:

- **A method to retrieve and/or access information about an equipment, plant or process in a facility comprising a plurality of devices and one or more control systems for process monitoring and control**, as (col. 6 lines 11- 26) “typical server room layout that can be monitored”, where server room is equipment and facility as claimed.
- **wherein energy-related information and other data for each said device is stored in a said control system**, as (col. 6 lines 45 – 52) “modern computers and computer peripheral equipment have the capability to permit monitoring of various system parameters, such as the on/off status of fans, processor temperatures, various system voltages, and other system parameters” where the system parameters are energy-related information as claimed, the method comprising:
- **configuring a software entity with an identity of a selected said equipment, plant or process**, as (col. 6 lines 49-51) “With the appropriate software and communication links, such systems can be queried for these various parameters.”
- **retrieving information associated with said equipment, plant or process by means of the configured software entity**, as (col. 6 lines 51-52) “present invention can perform

these monitoring functions”, furthermore (col. 7 lines 11-13) discloses monitoring temperature, humidity, air flow and presence of smoke within the server room, (col. 7 lines 37-38) discloses monitoring a door and whether it is open or closed....etc.,

- **and presenting or displaying at least information about a new event or alarm for said device and/or the location of said equipment, plant or process about to a user,** as (col. 20 lines 45-54) “typical alarm email and scheduled report email that might be sent out by the computer network and equipment....emails can include the date, location, the identity, of the micro-web server sending the email”

**As per Claim 8, Claim 1 is incorporated and further Fowler disclose:**

- **configuring a technical information link of component of a said equipment, plant or process with an identity of a user with access to relevant technical information**  
(TABLE 1) discloses technical information provided to the user.

**Claim 13** refers to a computer program product for retrieving and/or accessing information about an equipment, pant or process comprising a computer readable medium and computer code means corresponding to method claim 1, and is rejected under the same reason set forth in connection to rejections of claim 1. Where **Fowler** further discloses a computer program product on computer readable medium as (col. 2 lines 49-54).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 2-7, 9-12, 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fowler** as in view of **Tonack (US 7120830 B2)**

**As per Claim 2, Claim 1 is incorporated and further Fowler disclose:**

- **further comprising: retrieving the information associated with said equipment, plant or process by means of the software entity**, as (col. 6 lines 51-52) “present invention can perform these monitoring functions”, furthermore (col. 7 lines 11-13) discloses monitoring temperature, humidity, air flow and presence of smoke within the server room, (col. 7 lines 37-38) discloses monitoring a door and whether it is open or closed....etc. where each of these devices are retrieving information of associated equipment
- But **Fowler** does not disclose: **finding one or more internal users with technical information relevant to equipment, plant or process.**

However, **Tonack** teaches the above limitations as (col. 5 lines 24-25) “equipment operators supervise the production activity carried out on the production equipment” and (col. 5 lines 45-49) “employees or supervisors located at remote business locations...are able to access information related to the maintenance and repair status of the production equipment”, where (col. 10 lines 43-44) “a remote computer configured to receive the alert.”

Therefore it would have been obvious to one of the ordinary skill in the art at the time of the invention made to incorporate the teaching of **Tonack** into the teaching of **Fowler** because one of the ordinary skill in the art would have been motivated to use such a modification for the purpose of providing a maintenance coordinator in a system that automatically detects faults in a

system so together provides an efficient way to coordinate service request with corresponding technician.

**As per Claim 3, Claim 2 is incorporated and further Fowler does not disclose:**

- **assigning the new event or alarm for said equipment, plant or process to an internal user.**

However, **Tonack** teaches the above limitations as (col. 5 lines 24-25) "equipment operators supervise the production activity carried out on the production equipment" and (col. 5 lines 45-49) "employees or supervisors located at remote business locations...are able to access information related to the maintenance and repair status of the production equipment", where (col. 10 lines 43-44) "a remote computer configured to receive the alert."

Therefore it would have been obvious to one of the ordinary skill in the art at the time of the invention made to incorporate the teaching of **Tonack** into the teaching of **Fowler** because one of the ordinary skill in the art would have been motivated to use such a modification for the purpose of providing a maintenance coordinator in a system that automatically detects faults in a system so together provides an efficient way to coordinate service request with corresponding technician.

**As per Claim 4, Claim 2 is incorporated and further Fowler does not disclose:**

- **retrieving an address for an external user or expert and presenting the address to the internal user.**

However, **Tonack** teaches the above limitations as (col. 7 lines 4-26) teaching a maintenance coordination software, where maintenance calls are placed and maintenance technicians are made aware of the maintenance calls in a number of ways; through a terminal listing, email or

pager calls, and possible email server can send out notifications to particular locations so that specific technicians related to the locations are notified. Also (col. 10 lines 43-44) "wherein the remote computer is further configured to relay the content of the alert to a maintenance technician"

Therefore it would have been obvious to one of the ordinary skill in the art at the time of the invention made to incorporate the teaching of **Tonack** into the teaching of **Fowler** because one of the ordinary skill in the art would have been motivated to use such a modification for the purpose of providing a maintenance coordinator in a system that automatically detects faults in a system so together provides an efficient way to coordinate service request with corresponding technician.

**As per Claim 5, Claim 4 is incorporated and further Fowler does not disclose:**

- **establishing contact between the external user or expert and the internal user.**

However, **Tonack** teaches the above limitations as (col. 7 lines 4-26) teaching a maintenance coordination software, where maintenance calls are placed and maintenance technicians are made aware of the maintenance calls in a number of ways; through a terminal listing, email or pager calls, and possible email server can send out notifications to particular locations so that specific technicians related to the locations are notified. Also (col. 10 lines 43-44) "wherein the remote computer is further configured to relay the content of the alert to a maintenance technician"

Therefore it would have been obvious to one of the ordinary skill in the art at the time of the invention made to incorporate the teaching of **Tonack** into the teaching of **Fowler** because one of the ordinary skill in the art would have been motivated to use such a modification for the

purpose of providing a maintenance coordinator in a system that automatically detects faults in a system so together provides an efficient way to coordinate service request with corresponding technician.

**As per Claim 6, Claim 4 is incorporated and further Fowler does not disclose:**

- **establishing a shared display or shared computer application contact between the external user or expert and the internal user**

However, **Tonack** teaches the above limitations as (col. 9 lines 21 – 35) “maintenance coordination system” where the system is used by operators, technicians and other users for making repair calls, check equipment history process, enter production equipment status, trend analysis process, etc.

Therefore it would have been obvious to one of the ordinary skill in the art at the time of the invention made to incorporate the teaching of **Tonack** into the teaching of **Fowler** because one of the ordinary skill in the art would have been motivated to use such a modification for the purpose of providing a maintenance coordinator in a system that automatically detects faults in a system so together provides an efficient way to coordinate service request with corresponding technician.

**As per Claim 7, Claim 1 is incorporated and further Fowler does not disclose:**

- **configuring a selected technical characteristic of the selected said equipment, plant or process with an indicator of a high, medium or low priority for returning the selected said equipment, plant or process to a normal state.**

However, **Tonack** teaches the above limitations as (col. 6 lines 1-18) “indicate the operable condition of the machine....Select Problem Code....Operator Notes” where each of these data

fields provides the condition of the device providing information which can be used to prioritize the importance of the repair to the failed device. Furthermore (col. 6 lines 49-53) "maintenance and repair technicians can better prioritize their response to service calls if they are experiencing multiple simultaneous failures."

Therefore it would have been obvious to one of the ordinary skill in the art at the time of the invention made to incorporate the teaching of **Tonack** into the teaching of **Fowler** because one of the ordinary skill in the art would have been motivated to use such a modification for the purpose of providing a maintenance coordinator in a system that automatically detects faults in a system so together provides an efficient way to coordinate service request with corresponding technician.

**As per Claim 9, Claim 8 is incorporated and further Fowler does not disclose:**

- **configuring said equipment, plant or process with an identity of a user with dependent on information recorded in the user profile.**

However, **Tonack** teaches the above limitations as (col. 7 lines 10 – 14) "request may include an instruction to list only maintenance calls in a particular location or relation to a particular type of production equipment. Thus, maintenance technicians may focus their attention on production equipment only within their area of responsibility."

Therefore it would have been obvious to one of the ordinary skill in the art at the time of the invention made to incorporate the teaching of **Tonack** into the teaching of **Fowler** because one of the ordinary skill in the art would have been motivated to use such a modification for the purpose of providing a maintenance coordinator in a system that automatically detects faults in a

system so together provides an efficient way to coordinate service request with corresponding technician.

**As per Claim 10, Claim 8 is incorporated and further Fowler does not disclose:**

- **configuring said equipment, plant or process with an identity of a user with dependent on information recorded in the user profile classified by any from the list of: responsibility, training, certified qualification, work experience.**

However, **Tonack** teaches the above limitations as (col. 7 lines 10 – 14) “request may include an instruction to list only maintenance calls in a particular location or relation to a particular type of production equipment. Thus, maintenance technicians may focus their attention on production equipment only within their area of responsibility.”

Therefore it would have been obvious to one of the ordinary skill in the art at the time of the invention made to incorporate the teaching of **Tonack** into the teaching of **Fowler** because one of the ordinary skill in the art would have been motivated to use such a modification for the purpose of providing a maintenance coordinator in a system that automatically detects faults in a system so together provides an efficient way to coordinate service request with corresponding technician.

**As per Claim 11, Claim 1 is incorporated and further Fowler does not disclose:**

- **attaching a user observation to the retrieved information associated with said equipment, plant or process as any form the list of: a text message, a video clip, a photograph, sketch, sound recording.**

However, **Tonack** teaches the above limitations as (col. 8 lines 29 - 51) disclosing information entered by the technician such as information related to the repair efforts.

Therefore it would have been obvious to one of the ordinary skill in the art at the time of the invention made to incorporate the teaching of **Tonack** into the teaching of **Fowler** because one of the ordinary skill in the art would have been motivated to use such a modification for the purpose of providing a maintenance coordinator in a system that automatically detects faults in a system so together provides an efficient way to coordinate service request with corresponding technician.

**As per Claim 12, Claim 1 is incorporated and further Fowler does not disclose:**

- **carrying out a repair, re-configure, re-programming or replacement of a faulty part of said equipment, plant or process based at least in part on technical information associated with said equipment, plant or process retrieved and/or presented by means of the software entity.**

However, **Tonack** teaches the above limitations as (col. 8 lines 29 - 51) "During the repair effort or upon its completion..." the technician has the ability to enter information related to the repair efforts.

Therefore it would have been obvious to one of the ordinary skill in the art at the time of the invention made to incorporate the teaching of **Tonack** into the teaching of **Fowler** because one of the ordinary skill in the art would have been motivated to use such a modification for the purpose of providing a maintenance coordinator in a system that automatically detects faults in a system so together provides an efficient way to coordinate service request with corresponding technician.

**Claims 15, 16, 17, 18** refers to a software architecture for retrieving and accessing information about an equipment, pant or process comprising a plurality of devices and one or

more control system for process monitoring and control corresponding to the method claims 1, 2, 2, 4, respectively, and are rejected under the same reason set forth in connection to rejections of claims 1, 2, 2, 4 respectively above.

**Claims 19, 20** are control system claims corresponding to the method claims 1, 2, respectively, and are rejected under the same reason set forth in connection to rejections of claims 1, 2 respectively above. Where **Fowler** discloses a system as Fig. 7.

*Conclusion*

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Truong whose telephone number is (571) 270-3157. The examiner can normally be reached on MON - FRI: 7:30 - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MOHAMMAD Ali can be reached on (571) 272-4105. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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